

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK
IN CLERK'S OFFICE
DISTRICT COURTE D.N.Y.

★ JAN 21 2016 ★

ACESHUNN BROWN,
Petitioner,

- VS -

BROOKLYN OFFICE

Crm. Case No. 1:07-cr-00202-JBW

Civil Case No _____

UNITED STATES OF AMERICA,
Respondent.

Petition For Writ to Release Aceshunn-W:Brown to Home Confinement

Now comes Petitioner, Aceshunn-W:Brown, in pro se, forma pauperis, and moves this Honorable Court for the issuance of a writ to Release Aceshunn-W:Brown out on Home Confinement.

Jurisdiction

This Court has jurisdiction to issue the writ, as this is MR. Brown's Sentencing Court which resides over this matter.

Cause of Action

1.) Petitioner has served (9) year's on his "Non-Violent" offense of being a felon in Possession of a firearm, in which he was sentenced to an enhanced sentence under the ACCA to a Mandatory Minimum of 15 year's, in which said ACCA statute was "Voided" for its Vagueness.

Case History

On February 14th, 2007, the Petitioner, Aceshunn Brown, was arrested and charged with criminal possession of a firearm by an ex-felon, in violation of 18 U.S.C. § 922(g)(1). On January 7, 2008, Petitioner pled guilty to this single count; and on April 21, 2008, this Court sentenced Petitioner to fifteen (15) years in prison as an "Armed Career Criminal," after ruling that three (3) prior convictions qualified as § 924(e) predicates.

On January 12, 2009, Petitioner filed a Petition for Writ of Habeas Corpus § 2255, citing ineffective assistance, and the Court lacked jurisdiction to impose the enhanced sentence without the prerequisite prior violent offenses, and/or serious drug offense.

On February 4th, 2009, the Government filed a response, asserting that Petitioner was correctly sentenced under the ACCA, because he had three (3) prior criminal convictions stemming from three (3) separate criminal acts – two of which were violent offenses – and one of which was a serious drug offense.

A non-evidentiary hearing was held on May 22, 2009, with Petitioner present in court. Finally on August 7, 2009, the District Court denied the Writ for lack of merit, and declined to grant a Certificate of Appealability to the Court of Appeals.

Argument

1.) Petitioner's argument is that he has completed (9) nine years out of his non-violent offense in which his prior's enhanced him to a mandatory minimum of 15 years and due to his offense being non-violent, and Petitioner not having NO public safety issues Petitioner seeks to be released and placed on Home Confinement status.

As a result of the U.S. Supreme Court ruling in Johnson, the Armed Career Criminal Act is "Void for Vagueness." The legal effect of this ruling strips the ACCA of ANY and ALL force or effect under law, as if it never existed in law. With the ACCA having no force or effect under law, the enhancement made to Petitioner's Sentence under the ACCA, is also stripped of any force or effect under law.

When the U.S. Supreme Court Voids a statute as being "offensive" in any way, to the U.S. Constitution and Bill of Rights; any action derived from said statute is also "Void."

Petitioner, as Originally charged under § 922(g), was facing a guideline range of 41 to 51 months, with a maximum of ten (10) years statutory term of imprisonment for his conviction without the armed Career Criminal enhancement. Petitioner has now served (9) years on his unlawfully enhanced Sentence – well above the guideline range of 41-51 months under 922(g). For this reason, Petitioner seeks to be released out on "Home Confinement Status".

Affirmation

I hereby declare and affirm under pain and penalty of perjury that the foregoing is true and correct.

Aceshunn Brown
ACESHUNN BROWN, in pro se
Reg. No. #74958-053
P.O. BOX 1000
Lewisburg, PA 17837

CERTIFICATE OF SERVICE

I, Aceshunn Brown, do hereby state under the Pains and Penalties of

Perjury that this "Petition for Writ to Release Aceshunn-W:Brown, out to Home Confinement" was sent to the U.S.D.C.-CLERK's office in the Eastern District of New York for Process, filing and to forward the Judge, and Respondents a Copy on this 18th Day of January, 2016. Via U.S. Postage Mail Per the "Mail-Box" rule.

Aceshunn-W:Brown
Aceshunn-W:Brown

USP-Lewisburg

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